Amended Decision Options **February 26, 2016**

MPUC Docket E015/TL-14-21

A. Recent Filings:

1. Take administrative notice of the U.S. Fish and Wildlife Service February 12, 2016 filing to the proceeding.

2 The Commission notes the applicant's objections to the Minnesota Department of Natural Resource's February 5, 2016 Exceptions Letter, and allows them to be entered into the record.

B. Further Clarifications and Corrections

1. Modify modifications of the title of Item 5.A of the Staff Exceptions Table to read as follows: "5.A ALJ Recommendation #23 and Findings of Fact #689-704".

2. Do not incorporate any changes to Item 6.A as indicated in the Staff Exceptions Table for Findings of Fact #87 & &88.

3. The total length of the project HVTL will be determined depending upon the consideration of route alternatives, alignment modifications and engineering considerations. The route permit and order for the proceeding will be changed to indicate the anticipated total line length of the Blue Route as approximately 215 miles and the Blue Route, as modified by the Effie Variation to be approximately 224 miles in length.

4. Delete the following sentence of Staff Comments identified as Item 1.C in the Staff Exceptions Table: ~~Additionally, the record does not provide a robust analysis of this portion of a 3-line corridor in relation to portion of 3-line corridor in the West Section proposed by the applicant.~~.

5. Include the word "maintenance" be included in Section A of Attachment B to the Proposed Route Permit.

C Draft Permit Conditions

1. The Commission's generic permit language has been modified since its introduction into the record. Approve the modifications of the Route Permit in order to incorporate changes C.1.1 – C.1.7 as described herein.

2. Further modify Modified Route Permit and incorporate changes Sections 4.81, 5.0.1, 5.0.6) related to reflect DNR comments in the summary document identified as C.2, as described herein.

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Additional Modifications to Proposed Route Permit

Change C.1.1:

5.1~~4.2.7~~ Soil Erosion and ~~Site~~ Sediment ~~and Erosion~~ Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Program.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with landowners on the selection and use of seed for replanting.

In accordance with MPCA~~Where larger areas of one acre or more are disturbed or other areas designated by the MPCA~~, the Permittee shall obtain a National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater permit from the MPCA.

Change C.1.2:

5.1~~**4.5**~~ **Permit Distribution and Notification** ~~**to Landowners**~~

Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures. In no case shall the landowner receive this route permit and complaint procedures less than five days prior to the start of construction on their property. The Permittee shall contact landowners prior to entering the property or conducting maintenance along the route. The Permittee shall work with landowners to locate the high-voltage transmission line to minimize the loss of agricultural land, forest, and wetlands, and to avoid homes and farmsteads.

At the time of first contact, the Permittee shall also provide all affected landowners with a copy of the Department of Commerce's Rights-of-Way and Easements for Energy Facility Construction and Operation fact sheet.[1]

http://mn.gov/commerce/energyfacilities/documents/Easements%20Fact%20Sheet_08.05.14.pdf

Change C.1.3:

5.2.10 Application of Herbicides

The Permittee shall restrict herbicide use to those herbicides and methods of application approved by the Minnesota Department of Agriculture and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. The Permittee shall contact the landowner or his designee to obtain approval for the use of herbicide prior to any application on their property. The landowner may request that there be no application of herbicides on any part of the right-of-way within the landowner's property. All herbicides shall be applied in a safe and cautious manner so as not to damage crops, orchards, tree farms, or gardens. The Permittee shall provide notice of herbicide application to known beekeepers operating apiaries within one mile of the project site at least 14 days prior to such application.

Change C.1.4:

5.2.12 Noxious Weeds

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with landowners on the selection and use of seed for replanting.

Change C.1.5:

5.2.12 Roads

The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city or township roads that will be used during the construction phase of the project. Where practical, existing roadways shall be used for all activities associated with construction of the solar facility. Oversize or overweight loads associated with the facility shall not be hauled across public roads without required permits and approvals.

The Permittee shall construct the least number of site access roads it can. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access

[1] http://mn.gov/commerce/energyfacilities/documents/Easements%20Fact%20Sheet_08.05.14.pdf

roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

Change C.1.6:

5.2.18 Pollution and Hazardous Wastes

All appropriate precautions to protect against pollution of the environment must be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during construction and restoration of the right-of-way.

Change C.1.7:

5.2.20 Notification

Before entering a landowner's property for construction or maintenance the Permittee shall notify landowners or his designee at least 14 days in advance.

Document C.2 – Amended Decision Options Requested by MN DNR with Replies from DOC and MP

DNR REQUEST UPON REVIEW	DOC EERA COMMENTS	MINNESOTA POWER COMMENTS	STAFF COMMENTS
4.8.1 Applicable Codes **The Permittee shall comply with applicable NERC planning standards and requirements of the NESC including clearances to ground, clearance to crossing utilities, clearance to buildings, right-of-way widths, erecting power poles, and stringing of transmission line conductors.** **When triple paralleling lines within the permitted route width, lines shall be located a close as practicable in compliance with other required permits or licenses, recognizing safety, access, and operating and maintenance issues for all impacted lines regardless of ownership. The Permittee shall consult with MNDNR regarding forestry and other potential corridor impacts prior to submitting the Plan and Profile for review by the Department and the Commission.**	**DOC Staff noted that Minnesota Power had identified a need for a 250 foot minimum clearance requirement for the line.**	**4.8.1 Applicable Codes** **The Permittee shall comply with applicable NERC planning standards and requirements of the NESC including clearances to ground, clearance to crossing utilities, clearance to buildings, right-of-way widths, erecting power poles, and stringing of transmission line conductors.** **When triple paralleling lines within the permitted route width, lines shall be located ~~a close as practicable~~ in compliance with above standards and in compliance with other required permits or licenses recognizing safety, access and operating and maintenance issues for all impacted lines regardless of ownership. Permittee shall consult with MNDNR regarding forestry and other potential corridor impacts prior to submitting the Plan and Profile for review by the Department and the Commission.**	**DNR noted that consolidated infrastructure is better for forestry management, wildlife and ecological impacts, and wildfire and wind event emergency management. DNR stated that it is important to note that the problematic spacing would be preferable to routing through undeveloped areas. In areas under the jurisdiction of the License to Cross Public Lands and Waters, the DNR may include License conditions balancing safe and ecologically sound forest management with required codes and standards for utilities.** **DOC EERA and Minnesota Power do not agree with the "as close as practicable" language as the applicant has indicated a need for greater separation in consideration of safety requirements during construction and maintenance of the line.**

5.0.1 Construction Environmental Control Plan (CECP) **Construction Environmental Control Plan. The Permittee shall develop a Construction Environmental Control Plan (CECP) that shall include all environmental control plans and special conditions imposed by permits or licenses issued by state or federal agencies related to agency-managed resources. Plans within the CECP shall include, but not be limited to, the Agricultural Impact Mitigation Plan, the Avian Mitigation Plan, the Vegetation Management Plan, the Mineral Resource Plan, and a Stormwater Pollution Prevention Plan. The CECP shall be filed with the Commission 30 days prior to submitting the plan and profile for any segment of the Project. The Mineral Resource Plan shall be filed 30 days prior to tower erection construction.** **The Permittee shall provide dedicated independent environmental inspectors and monitors to oversee the construction process and to monitor compliance with 1) the Vegetation Management Plan, 2) the Avian Mitigation Plan, and 3) the requirements of this and all other environmental permits.**	**DOC EERA supports this language related to the Mineral Resource Plan** **DOC noted that they agree with the requirement for an outside inspection service, but would prefer to use a term such as "dedicated inspection team" because the term "third party" has a separate federal definition and its use may lead to confusion.**	**Minnesota Power indicated that the provisions of the Mineral Resources Plan is largely covered by the DNR license (except for county tax-forfeited land).** **Minnesota Power agrees to consulting with DNR on these issues provided the scope is limited and Minnesota Power is not held responsible for paying for mineral exploration costs.** **Minnesota Power does not agree that a third party monitor is necessary given overall permit obligations and incentives to ensure compliance; and that this would result in additional ratepayer costs.** **Minnesota Power stated that it was the Mineral Resource Plan was intended to address DNR concerns related to interference from tower and line structures during geophysical detection** **The filing requirement should be different for the Mineral Resources Plan than that indicated in Section 5.0.1.**	**Staff notes that there appears to be sufficient concurrence to establish a Mineral Resource Plan.** **DNR noted its previous comments regarding the importance of third party monitoring. For previous large energy projects, the DNR has found it helpful to work with environmental monitors required by the PUC.**

5.0.6 Mineral Resource Plan The Permittee must develop a Mineral Resource Plan (MRP). The Permittee shall consult with the MNDNR regarding the scope and content of the MRP. The purpose of the MRP will be to identify measures to avoid interference with the exploration or mining operations conducted on state-owned mining units. The MRP would include (1) General description of state-owned mineral resources in the project area; and (2) Documentation of consultation with the MNDNR regarding measures to avoid interference with exploration and encumbrance of state-owned minerals.	DOC EERA notes that the MRP requirement appears acceptable to MP, DOC and DNR.	As noted above, Minnesota Power agrees in principle to the Mineral Resources Plan and consultation with DNR on the matter provided the scope is limited and exploration costs are not passed on to ratepayers.	DNR noted that transmission lines create "noise" for geophysical detection methods (non-drilling methods) of mineral exploration, particularly for greenfield routing in the eastern portion of the project. Some portions of the project have areas of probable or known non-ferrous state-owned minerals. Revenue from possible future mining operations would fund Minnesota schools, and because of the type of mineralization, revenue could be substantial. There is a possibility of significantly reducing future return to the trust if the ability to detect minerals is permanently affected. Obtaining data prior to placement of the line would help mitigate a possible loss of future revenue. One possible method of obtaining data could be conducting a flyover with detection equipment. DNR's License to Cross Public Lands and Waters also address physical mineral encumbrance. The small, but economically significant, chance of physical encumbrance of minerals is typically addressed by requiring moving the transmission line. This would affect PUC permitting, requiring an alignment shift, minor alteration, or new permit.